UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

IN RE: PROCEDURES IN CIVIL ACTIONS FILED BY NON-PRISONER *PRO SE* LITIGANTS,	))))))	Misc. No. 3:07-mc-5015-JFA ORDER

This Order promulgates updated procedures in this District Court for actions filed by *pro se* litigants.[1] The procedures in this Order, however, do not apply to prisoners proceeding *pro se*, because this Court has issued a separate operating order for prisoners. *See* Misc. No. 3:07-mc-5014-JFA (September 18, 2007). Litigants who are not represented by counsel often fail to provide the proper paperwork to proceed with an action or to pay the required filing fee. Therefore, this Order outlines the procedures to be used in such cases. The following internal operating procedures are adopted:

I. Submissions For Filing By *Pro Se* Litigants

A. The Clerk of Court is prohibited by Rule 5(e) of the Federal Rules of Civil Procedure from "refus[ing] to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices." It is the practice of this Court, and the Clerk of Court is authorized, to accept pleadings presented by *pro se* litigants for filing, to assign a civil action number and to assign a Magistrate Judge for initial review of the

[1] This Order replaces the prior order of this Court, *IN THE MATTER OF: Giving Notice to Pro Se Litigants of Their Duty to Advise the Court of Their Current Addresses*, 3:92-mc-316, as it applies to non-prisoner *pro se* litigants.

case even though the case may not be in proper form.[2] The Clerk of Court shall file the documents in the Court's Case Management/Electronic Case Filing system as of the date they are received for docketing.

B. A civil action in proper form consists of the following:

1. a pleading with the plaintiff's original signature;
2. one summons with the names and addresses of all defendants sued or separate summonses with the name and address for each defendant sued;
3. a separate, completed form USM-285 for each defendant sued if the plaintiff is seeking to proceed *in forma pauperis*; and
4. a completed and signed set of Local Rule 26.01 interrogatories.

C. If a case is not in proper form in some respect, an order issued by the assigned Magistrate Judge will direct the *pro se* litigant to submit the items needed to render the case into proper form within a reasonable time. If the *pro se* litigant timely complies with the order, the Magistrate Judge will review the case and determine if service of process should be authorized. If the *pro se* litigant does not comply with the order to bring the case into proper form, the Clerk of Court shall forward the case to the assigned Magistrate Judge for a Report and Recommendation that the assigned District Judge or Senior District Judge dismiss the case without prejudice for lack of prosecution under Rule 41 of the Federal Rules of Civil Procedure.

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[2] An exception to the Clerk of Court filing pleadings and assigning a civil action number exists where a filing injunction order has been issued against a named individual. Depending on the exact terms of the injunction order and on the enjoined individual's compliance therewith, some papers submitted by the enjoined individual for filing may be returned to the enjoined individual and not filed by the Clerk of Court.

II. Filing Fees and *In Forma Pauperis*

A. The Clerk of Court is required by 28 U.S.C. § 1914(a) to collect a filing fee from the party initiating a civil action. Title 28 U.S.C. § 1915(a)(1) allows "any court of the United States" to "authorize the commencement, prosecution or defense of any suit. . . without prepayment of fees or security therefor" upon filing an affidavit that the person is unable to pay the filing fee. In a civil action filed by a *pro se* litigant seeking to proceed *in forma pauperis* under § 1915(a)(1), the *pro se* litigant must file an Application to Proceed Without Prepayment of Fees and Costs (Form AO 240), or a substantially similar form. If a *pro se* litigant submits a civil action to the Court without the filing fee or a Form AO 240, the Clerk of Court will not file the civil action until either a filing fee has been paid or a request to proceed *in forma pauperis* has been filed.

B. This Operating Order does not restrict a judge's discretion to determine in the interest of justice that no filing fee is due on a case by case basis.

III. Notification of Address

A *pro se* litigant must provide the Clerk of Court a current address at which mail from the Court can be received. An initial order will notify the *pro se* litigant that any change of address from the address provided at the initiation of the case must be given to the Clerk of Court in writing. A *pro se* litigant shall be warned that the case can be dismissed for failure to keep the Clerk of Court informed in writing of a current address. If a *pro se* litigant does not provide notification of a change of address and documents mailed to the *pro se* litigant return to the Court as undelivered, the *pro se* litigant's case may be dismissed for failure to comply with an order of the Court and/or for lack of prosecution under Rule 41 of Federal Rules of Civil Procedure.

This Order becomes effective on the date it is filed and applies to *pro se* litigant cases filed after the effective date.

IT IS SO ORDERED.

FOR THE COURT:

Joseph F. Anderson, Jr.
Chief Judge

September 18, 2007
Columbia, South Carolina